IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

OP.No. 13228 of 1999(Y)

PETITIONER:

P.SIVADASINI AMMA,
T.C.24/1074, APSARA,
THYCAUD, THIRUVANANTHAPURAM.

BY ADV. SRI.V.N.ACHUTHA KURUP (SR.)
SRI.B.S.SWATHY KUMAR

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE CHIEF ELECTRICAL INSPECTOR,
CHIEF ELECTRICAL INSPECTORATE,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.SUSARSHAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/01/2007, THE COURT ON 23/01/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1 MEMO DT 15.12.97 OF R2.

P2 REPRESENTATION DT 19.12.97 TO R2.

P3 MEMO DT 2.1.98 OF R2.

P4 REPRESENTATION DT 20.4.98.

P5 LETTER DT 3.6.98 TO R2.

P6 LETTER DT 16.12.99 OF R1 TO THE PETITIONER.

P7 LETTER DT 23.2.99 OF R1.

P8 LIST PREPARED AS ANNEXURE TO ODER DT 8.3.99.

P9 LETTER DT 19.4.99 OF R2.

RESPONDENT'S EXHIBITS:

ANNEXURE-I LETTER DT 28.7.96.

ANNEXURE-II LETTER DT 18.12.98.

TRUE COPY

P.A. TO JUDGE

S. SIRI JAGAN, J.

O.P. No. 13228 OF 1999 Y

Dated this the 23rd day of January, 2007

J U D G M E N T

The petitioner entered service as a Steno-typist in the office of the Chief Electrical Inspector. She was promoted as Confidential Assistant Grade-II. Thereafter, she got higher grade promotion with effect from 21.2.1985. Later, on the basis of a Government Order upgrading the post of Confidential Assistant Grade-II to that of Confidential Assistant Grade-I with effect from 22.7.1983 the petitioner was granted retrospective promotion as Confidential Assistant Grade-I with effect from 22.7.1983. The petitioner is now aggrieved by Exts.P1, P3, P6 and P9 orders by which the monetary benefits arising out of the retrospective promotion has been denied to her. Accordingly, she is challenging those orders.

2. I am of opinion that the petitioner is not entitled to the reliefs prayed for more than one reason. Firstly, the petitioner has not cared to produce before this court the order by which the petitioner was accorded retrospective promotion with effect from 22.7.1983 without seeing which it cannot be ascertained whether or not she is entitled to monetary benefits also. This is so because if in that order monetary benefits are

denied to her, without challenging that order she cannot successfully challenge the impugned orders. Secondly, she did not raise her claim for monetary benefits arising out of the retrospective promotion within any reasonable time after issue of that order. The earliest representation she made in this regard is on 9.9.1997, which was rejected by Ext.P1 order dated 15.12.1997 on the ground that there is a specific entry in her service book to the effect that '"No monetary benefit in the grade promotion sanctioned". Even then, the petitioner did not choose to challenge those orders. She went on filing another representation, which was also rejected by Ext.P3 order dated 2.1.1998 stating the very same reason as in Ext.P1. Still the petitioner did not find it necessary to challenge the same. She again filed a representation, which was rejected by Ext.P5 order of the Government dated 3.6.1998. The same was followed up by Ext.P6 order dated 16.2.1999. That also the petitioner did not challenge immediately. She waited till 1.6.1999.

3. Further, in the counter affidavit submitted on behalf of the 2nd respondent it is specifically stated that if the petitioner is to be given monetary benefits of the retrospective promotion with effect from 22.7.1983 she would have to refund the amounts received by her on her getting time bound grade promotion with effect from 21.2.1985, which would not be available to her, if she is to be given retrospective

promotion with effect from 22.7.1983. It is further stated therein that consequent on revision of pay as ordered by pay revision order in 1985 also she would become liable to refund a huge amount in lump sum being excess amounts drawn consequent on such re-computation of the benefits. In any event, since the petitioner has not approached neither the authorities nor the court within a reasonable time after the orders regarding her retrospective promotion, which was issued as early as on 19.2.1986, I am not inclined to exercise my discretionary jurisdiction in favour of the petitioner at this distance of time. Accordingly, the original petition is dismissed.

(S. SIRI JAGAN, JUDGE)

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S. SIRI JAGAN , J.

OP No.13228/99 Y

J U D G M E N T

23rd January, 2007